

REMARKS

Claims 1-68 have been cancelled.

Claims 69-73 have been withdrawn.

New claim 74 is presented for examination. Support for this subject matter is found, for example, in Figure 1 and the associated text concerning the optimization procedure 122, the segmentation procedure 124, and the allocation procedure 126, together with the text at page 19, line 29 through page 20, line 8. The segmentation procedure is described on pages 27-31 of the written description. No new matter has been included.

Claims 1-38 and 45-68 are rejected under 35 USC 103(a) as being unpatentable over Ranka et al, U.S. Patent No. 7,130,808, in view of Benthin et al, U.S. Publication No. 2002/0035568. Reconsideration is requested.

As the Examiner notes in the most recent Office action, Ranka '808 does not teach generating a visitor segmentation based on computed message state and using visitor profile data, user-defined campaign constraints and user-defined campaign objectives; Benthin, however, is said to provide this teaching.

Benthin describes an apparatus that comprises a customer profile database containing profile information about customers, a customer profile manager providing current customer data concerning a customer receiving an automatic presentation, and a customer segmentation manager allowing customer profiles to be segmented based on campaigns, user actions, or both. A campaign editor accepts user input to define campaign definition data sets containing parameters for selecting customers according to the profile information about customers stored in the customer profile database and for defining associated product or service information. The apparatus also includes a customer dialog processor receiving a plurality of the campaign definition data sets and the current customer data; this processor outputs recommended presentation parameters defining a presentation in accordance with a campaign associated with the plurality of campaign definition data sets. A customer information server is connected to a data store of automatic presentation information including product or service information and to a customer presentation interface device associated with the current customer. The customer information server receives the presentation parameters and provides a presentation by selecting information from the data store of automatic presentation information in accordance with the

campaign. The customer profile database contains data on customer response, and the campaign editor comprises a customer behavior analysis module connected to the customer profile database for outputting data indicative of customer response to at least one of the plurality of campaigns. Preferably, the system further comprises a customer segmentation manager allowing customer profiles to be segmented based on campaigns, user actions, or both. Membership in a particular customer segment may be fixed (explicit) or dynamic (evolving).

While Benthin does disclose customer profiles to be segmented based on campaigns, the specific claim requirement is “a segmentation process programmed to segment a target visitor population into a set of segments using one or more templates each comprising one or more cells, wherein the segmentation process compares a set of possible segmentations and uses a greedy algorithm to identify a segmentation that segments the target visitor population such that each cell for a given template belongs to one of the segments.”

Because neither Ranka nor Benthin teach the specific claim requirements of the segmentation procedure, the combined teachings do not meet the further requirement of “an allocation process programmed to receive the recommended message allocations from the optimization process and to receive the set of segments from the segmentation process and, in response, generating message allocations.” “[E]very limitation positively recited in a claim must be given effect in order to determine what subject matter that claim defines.” *In re Wilder*, 429 F.2d 447, 450 (CCPA 1970); *See also In re Wilson*, 424 F. 2d 1382, 1385 (CCPA 1970) (“[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.”).

While the cited art is pertinent, the claim limitations are more directed. Rejections based on §103 must rest on a factual basis with these facts being interpreted without hindsight reconstruction of the invention from the prior art. The Examiner may not “resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis.” *In re Warner*, 379 F.2d 10100, 1017 (CCPA 1967), *cert. denied*, 389 U.S. 1057 (1968).

Reconsideration and favorable action are requested.

Respectfully submitted,

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